

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

FRANKLIN L. WILLIAMS,

Petitioner,

v.

CIVIL ACTION NO.: CV511-036

REBBECA TAMEZ, Warden,

Respondent.

ORDER

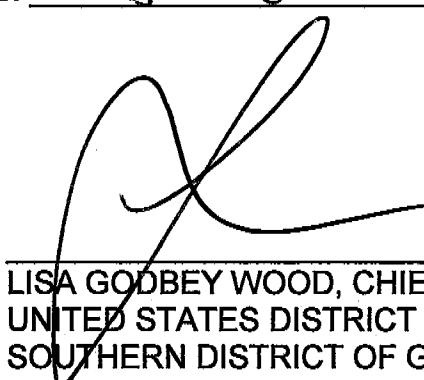
After an independent and *de novo* review of the entire record, the undersigned concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Petitioner Franklin Williams ("Williams") asserts that he has satisfied the requirements of 28 U.S.C. § 2255's savings clause based on the retroactively applicable decision in Padilla v. Kentucky, ___ U.S. ___, 130 S. Ct. 1473 (2010). Williams contends that he is actually innocent of the crime he was convicted of in state court.

Williams filed his 28 U.S.C. § 2241 petition to attack his state court convictions. Thus, § 2255 and its savings clause are not applicable to this petition. Additionally, Padilla does not support Williams' actual innocence assertion. The Supreme Court determined in Padilla that "constitutionally competent counsel would have advised [Padilla] that his conviction for drug distribution made him subject to automatic deportation." ___ U.S. at ___, 130 S. Ct. at 1478. Williams makes no assertion in this

petition that he received ineffective assistance of counsel, and, even if he did, Padilla would not lend support for that assertion.

Williams' Objections are **overruled**. The Magistrate Judge's Report and Recommendation, as supplemented herein, is adopted as the opinion of the Court. Williams' petition for writ of habeas corpus, filed pursuant to 28 U.S.C. § 2241, is **DISMISSED**. The Clerk of Court is directed to enter the appropriate judgment of dismissal.

SO ORDERED, this 1 day of June, 2011.



LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA